



U.S. Depart

United State
Southern Di.

USDC SDNY

DOCUMENT

ELECTRONICALLY FILED

DOC #:

DATE FILED: 12/23/2020

The Silvio J. Mollo
One Saint Andrew's Plaza
New York, New York 10007

November 19, 2020

Hon. Analisa Torres
United States District Court
500 Pearl Street
New York, NY 10007

Re: United States v. Jian Li, 20 Cr. 568 (AT)

Dear Judge Torres:

The Government respectfully submits this letter on behalf of both parties, regarding the defendant's October 26, 2020 request (the "October 26 Requests") for documents relating to the composition and empanelment of the November 2018 grand jury in Manhattan that indicted the above-captioned case (the "Grand Jury"). A copy of the October 26 Requests is attached hereto as Exhibit A.

As you are likely aware, defendants in other cases in this District have filed similar requests for documents related to a grand jury sitting in White Plains, including in *United States v. Balde*, 20 Cr. 281. *See, e.g., United States v. Baker*, 20 Cr. 288 (LJL); *United States v. Hightower*, 20 Cr. 303 (RMB); *United States v. Simmons*, 20 Cr. 294 (PKC); *United States v. Rivera*, 20 Cr. 304 (AJN); *United States v. Gilmore*, 19 Cr. 724 (JGK); *United States v. Perkins*, 19 Cr. 704 (JSR). On June 30, 2020, in connection with *Balde*, Judge Failla conducted an interview of Linda Thomas, the former Jury Administrator for the United States District Court for the Southern District of New York (the "June 30 Call"). A transcript of that call is attached hereto as Exhibit B. During that call, the Jury Administrator confirmed that she was working under the terms of the February 13, 2009 Amended Plan for the Random Selection of Grand and Petit Jurors in the United States District Court of the Southern District of New York, as modified by orders signed by Chief Judge McMahon. *See* Ex. B, at 30-32.

Following the June 30 Call, the Jury Administrator produced to the Government and counsel for Mr. Balde a set of documents responsive to the requests in *Balde* (the "*Balde* Documents"), pursuant to a protective order that Judge Failla entered. The Government then provided a copy of the *Balde* Documents to Mr. Balde's counsel with Bates stamps, for ease of reference.

The October 26 Requests differ, in part, from the requests in *Balde* because the Grand Jury that indicted this case was sitting in Manhattan, not White Plains. Nonetheless, the information the Jury Administrator provided in the June 30 Call and in the *Balde* Documents is responsive to some of the October 26 Requests. Accordingly, the Government has agreed to produce the *Balde*

Documents to the defendant, subject to a protective order with the same terms as the protective order in *Balde*.¹

This letter (i) identifies the October 26 Requests that the parties agree are satisfied by the *Balde* Documents and the June 30 Call (the “Satisfied Requests”); and (ii) identifies the October 26 Requests that may not be fully satisfied by *Balde* Documents and the June 30 Call (the “Open Requests”). The Government does not object to the Court requesting additional information from the Jury Administrator in response to the Open Requests.

The parties respectfully request that the Court provide the Jury Administrator with the October 26 Requests and this letter, and direct the Jury Administrator to respond—either through written responses or additional document productions—to the Open Requests.

Satisfied Requests

The parties agree that the June 30 Call and production of the *Balde* Documents will satisfy Request Numbers 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 17, 18, 19, and 24. The defendant also agrees to withdraw Request Number 27, without prejudice to re-issue that Request at a later time.

Open Requests

The following Request Numbers may not be fully satisfied in full by production of the *Balde* Documents and the June 30 Call: 8, 15, 16, 19, 20, 21, 22, 23, 25, and 26. Each Open Request is listed below:

Request Number 8: Any AO-12 form or JS-12 forms completed since the Jury Plan became effective February 13, 2009.

Request Number 15: The date when grand jurors were summoned in this case.

Request Number 16: The number of persons summoned from the Qualified Jury Wheel to be considered as grand jurors in this case.

Request Number 20: Some of the *Balde* Documents show potential jurors who were selected from the Master Jury Wheel for qualification who either had their qualification form returned by the postal service, did not respond or were disqualified or exempted or excused from jury service as described in the Jury Plan. To the extent the status codes refer to disqualifications, exemptions, or excuses with “for official use,” please supply the specific reason or describe what “for official use” means.

Request Number 21: Are persons marked as excused available for summoning as described in the Jury Plan Section VIII?

¹ Annalisa Miron, Esq., counsel for the defendant, has informed the Government that the defendant will consent to entry of a protective order with the same terms as the protective order in *Balde*, but reserves his right to object to the protective order at a later date.

Request Number 22: Are persons deferred to a different date? If so, please describe the procedure used once the deferred juror attends on the deferral date including their order of consideration.

Request Number 23: The Jury Number only (and not Name or Street Address) for persons selected as potential grand jurors in this case.

Request Number 25: The juror qualification and summons forms for persons summoned to potentially become grand jurors in this case.

Request Number 26: The disposition of each summoned potential grand juror in this case as to excusal, deferment, disqualification or selection as described in the Jury Plan.

Respectfully submitted,

AUDREY STRAUSS
Acting United States Attorney

by:



Thomas S. Burnett
Assistant United States Attorney
(646) 565-1633

GRANTED. The Office of Jury Administration is directed to release the requested documents.

SO ORDERED.

Dated: December 23, 2020
New York, New York



ANALISA TORRES
United States District Judge